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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,794	02/08/2001	Hiroshi Isono	108482	3978

25944 7590 09/13/2002

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 09/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,794

Applicant(s)

ISONO ET AL.

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-12,14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12,14,16-18,20 and 21 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because in figure 9 PMO appears to be based on Fo' instead of Fo. Clarification is required. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

3. The amendment filed 6/19/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The additions to the master cylinder particularly shown in new figure 1A introduces new matter. While Examiner recognizes that pressure pistons, for example, were mentioned in the originally filed specification, it is noted that the specification did not describe the pistons in the same detail as they are presented in amended figure 1 and new figure 1A. Also, the specification supported "a return spring", however, Applicant has drawn in and amended the specification to include two return springs 15a and 15b. Additionally, in paragraph [0046] of the specification, for example, the Applicant has amended phrases

that simply included the phrase "the pressure piston" to read as "the pressure piston 14b". Examiner maintains that the originally filed specification does not support choosing one piston over the other.

Applicant is required to cancel the new matter in the reply to this Office Action.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The phrase "reservoir tank" in claim 8 lacks proper antecedent basis in the specification. The specification discloses a reservoir 108 and a reservoir chamber 114 and a master reservoir 136. Clarification is required. See 112 rejections for claims 8 and 9.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 3-12, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are replete with 112 issues including but not limited to:

Re: claim 1. The phrase "fluid pressure" in line 3 is unclear. It is unclear whether the fluid pressure in line 3 is different or the same as that in line 2 of the claim.

Re: claims 3 and 6. The phrase "if the pressure" in line 8 is unclear. It is unclear whether Applicant is or is not claiming the condition following the word "if". Examiner recommends using the phrase --in a case-- or ---in the case-- as used in amended claim 1. The condition recited after "if" in line 8 appears to correspond to case iii of claim 1. Similarly, in line 11 the "if" format should be replaced. However, the condition after "if" in line 11 corresponds to a new case not recited in claim 1. A similar problem regarding the "if" format is found in claim 6.

Re: claim 3. Claim 3 recites the limitation "the brake operation" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Re: claim 5. The phrase "the power" in line 2 from the bottom of the claim is indefinite. It is unclear to the Examiner whether the power refers to the input power, the operation power, etc.

Re: claims 8 and 9. The phrase "the reservoir tank larger than the pressure chamber" in claims 8 and 9 is indefinite. The limitation is unclear since the reservoir tank is not defined.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 16-18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent JP-10147236 to Yamada et al. (corresponding to 6109879 as an English equivalent) in view of Maehara et al. and US Patent Application 2002/0030402 to Harada et al. Yamada et al. disclose a brake device having a fluid pressure source device MC shown in figure 2 which generates a fluid pressure based on operation of a brake operating member BP shown in figure 2, the brake device actuated by the fluid pressure generated by the fluid pressure source, comprising: a brake operating amount detector BS which detects an operating amount of the brake operating member, a fluid source pressure detector PH which detects the pressure generated in the fluid pressure source device, and a failure detector shown in figure 3 steps C, D, E F G PI, J and in figure 5 which detects types of failures distinctively of the brake device based on the pressure detected by the fluid source pressure detector and the amount of the brake operation detected by the brake operating amount detector.

Maehara et al. teach in col. 5 lines 28-32 the use of a bottoming detector 55. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the failure detector of Yamada et al. to have included a bottoming detector, as taught by Maehara et al., in order to provide a means of detecting a bottoming condition to indicate an excessive stroke of movement of the brake operating member.

Harada et al. teach in paragraph [0124] lines 10-11 the use of monitoring the gradient of a brake operating amount or pedal depression being larger than a

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predetermined amount. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the excessive stroke amount information used in determining bottoming of Yamada et al., as modified, to have included an increasing gradient of brake operating amount, as taught by Harada et al., as the use of determining when the increasing gradient of a brake operating amount is above a predetermined value is a well known means or parameter used for determining a braking related condition or for determining the triggering of an onset of a braking related condition as taught by Harada et al.

Allowable Subject Matter

10. Claims 1, 3-12, and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. 4212498 to Kawaguchi teaches the use of monitoring the gradient of master pressure with respect to wheel cylinder pressure but does not relate this parameter to bottoming.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmb 9/8/02
mmb
September 8, 2002

M. C. Graham
9/9/02
MATTHEW C. GRAHAM
PRIMARY EXAMINER
GROUP 310